

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE: FRESenius GRANUFLO/
NATURALYTE DIALYSATE
PRODUCTS LIABILITY LITIGATION

MDL No. 1:13-MD-02428-DPW

This Document Relates to:

SHORT-FORM COMPLAINT

AND DEMAND FOR JURY TRIAL

DON BROWN, Individually, and as
Representative the ESTATE OF NANCY
BROWN, Deceased;

Plaintiff,

VS.

FRESENIUS MEDICAL CARE HOLDINGS, INC.; FRESENIUS MEDICAL CARE HOLDINGS, INC. d/b/a FRESENIUS MEDICAL CARE NORTH AMERICA; FRESENIUS USA, INC.; FRESENIUS USA MANUFACTURING, INC.; FRESENIUS USA MARKETING, INC.; FRESENIUS USA SALES, INC.; FRESENIUS MEDICAL CARE AG & CO. KGaA.; FRESENIUS MEDICAL CARE MANAGEMENT AG.; FRESENIUS SE & CO. KGaA.; and FRESENIUS MANAGEMENT SE.

Defendants

SHORT FORM COMPLAINT

The Plaintiff(s) named below file this *Short-Form Complaint* against the Defendants named below and incorporate *The Master Complaint and Jury Demand* filed in MDL No. 2428 by reference. Plaintiff selects and indicates by checking-off where requested, those products, Parties and claims that are specific to his or her case. Plaintiffs (s) further allege as follows:

1. Plaintiff
Nancy Brown, deceased
2. Plaintiff's Spouse (if applicable)
Don Brown
3. Other Plaintiff and capacity (i.e., administrator, executor, guardian, conservator)
Don Brown, as Representative of the Estate
4. State of Residence
Texas
5. a. ☒ By checking here, I choose Massachusetts as the "home" forum.
5. b. If you did not chose Massachusetts as the "home" forum, identify the United States District Court and Division in which venue would be proper absent direct filing: Not Applicable.
6. Defendant(s) [Check Defendants against whom Complaint is made]:¹
 - ☒ FRESENIUS MEDICAL CARE HOLDINGS, INC.
 - ☒ FRESENIUS MEDICAL CARE HOLDINGS, INC. d/b/a FRESENIUS MEDICAL CARE NORTH AMERICA
 - ☒ FRESENIUS USA, INC.
 - ☒ FRESENIUS USA MANUFACTURING, INC.
 - ☒ FRESENIUS USA MARKETING, INC.
 - ☒ FRESENIUS USA SALES, INC.
 - ☒ FRESENIUS MEDICAL CARE AG & CO. KGaA.

¹ If additional Counts and/or Counts directed to other Defendants are alleged, the specific facts supporting these allegations must be pleaded by the Plaintiff in a manner complying with the requirements of the Federal Rules of Civil Procedure, and the Defendants against whom they are alleged must be specifically identified on a separate sheet of paper attached to the Short Form Complaint.

☒ FRESenius MEDICAL CARE MANAGEMENT AG.

☒ FRESenius SE & CO. KGaA.

☒ FRESenius MANAGEMENT SE.

☐ Other: _____

7. Basis of Jurisdiction

☒ Diversity of Citizenship

☐ Other: _____

Other allegations of jurisdiction and venue:

Not applicable

8. On or about August 26, 2010, Plaintiff had the following injury: Myocardial Infarction, which is alleged to have been caused by Defendants NaturaLyte and/or GranuFlo administered to Plaintiff for dialysis treatment at: Fresenius Medcal Care – Round Rock, 1499 East Old Settlers Blvd., Round Rock, Texas 78664.

9. The following claims asserted in *The Master Complaint and Jury Demand*, and the allegations with regard thereto, are herein adopted by reference:

☒ Count I STRICT LIABILITY

☒ Count II NEGLIGENCE FAILURE TO WARN

☒ Count III NEGLIGENCE DESIGN

☒ Count IV NEGLIGENCE

☒ Count V NEGLIGENCE MISREPRESENTATION

☒ Count VI BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY

☒ Count VII BREACH OF IMPLIED WARRANTY OF FITNESS FOR PARTICULAR PURPOSE

☒ Count VIII BREACH OF EXPRESS WARRANTY

- ☒ Count IX FRAUD
- ☒ Count X VIOLATION OF CONSUMER PROTECTION LAWS
- ☒ Count XI LOSS OF CONSORTIUM
- ☒ Count XII WRONGFUL DEATH
- ☒ Count XIII SURVIVAL ACTION
- ☐ *Other Count(s) (See FN 1)*

10. Plaintiff asserts the following additional theories against the Defendants identified in Paragraph 6 above (*See* FN 1): Not Applicable.
11. Plaintiff asserts the following additional theories against Defendants other than those identified in Paragraph 6 above (*See* FN 1): Not Applicable.

WHEREFORE, Plaintiff prays for relief as set forth in *The Master Complaint and Jury Demand* filed in MDL No. 2428.

Dated this 14th day of January, 2014.

RESPECTFULLY SUBMITTED,

/s/ Ryan L. Thompson

Ryan L. Thompson

Texas State Bar No. 24046969

Paige Boldt

Texas State Bar No. 24082626

WATTS GUERRA LLP

5250 Prue Road, Suite 525

San Antonio, Texas 78240

Telephone: 210.448.0500

Fax: 210.448.0501

Email: rthompson@wattsguerra.com

Email: pboldt@wattsguerra.com

ATTORNEYS FOR PLAINTIFF